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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/681,471	04/13/2001	Milton Silva-Craig	15-IS-5715	7327

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EXAMINER
TO, BAOQUOC N

ART UNIT	PAPER NUMBER
2172	12

DATE MAILED: 09/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	09/681,471	SILVA-CRAIG ET AL.
	Examiner	Art Unit	
	Baoquoc N To	2172	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____ .

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims 1-52

4)☒ Claim(s) ~~1-36~~ is/are pending in the application.

    4a) Of the above claim(s) 37-52 is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-36* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

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Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

    If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____ .

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

    a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)   4)☐ Interview Summary (PTO-413) Paper No(s). _____ .

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)   5)☐ Notice of Informal Patent Application (PTO-152)

3)☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .   6)☐ Other: .

Office Action Summary	Application No. 09/681,471	Applicant(s) SILVA-CRAIG ET AL.
	Examiner Baoquoc N To	Art Unit 2172

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____ .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-52* is/are pending in the application.

  4a) Of the above claim(s) *37-52* is/are ~~withdrawn from consideration.~~ *cancelled.*

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-36* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

  If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

  a)☐ All b)☐ Some * c)☐ None of:

    1.☐ Certified copies of the priority documents have been received.

    2.☐ Certified copies of the priority documents have been received in Application No. _____ .

    3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

  * See the attached detailed Office action for a list of the certified copies not received.

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2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .

4)☐ Interview Summary (PTO-413) Paper No(s). _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____ .

DETAILED ACTION

Continued Prosecution Application

1.   The request filed on 08/25/03 for a Requested for Continued Examination (RCE)

under 37 CFR 1.53(d) based on parent Application No. 09/681471 is acceptable and a

RCE has been established. An action on the RCE follows.

2.   Claims 1-36 are pending in this application.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3.   Claims 1-3, 5-10, 25-29 and 35-36 are rejected under 35 U.S.C. 102(b) as being

anticipated by Mortimore et al. (US. Patent No. 5,950,207).

Regarding on claim 1, teaches a central data archiving system, said system

comprising:

A data source providing medical data (server) (col. 11, lines 55-56), wherein said

medical data comprises at least one of a medical image, a medical report and a medical

application (radiology films, report, lab results, clinical notes) (col. 3, lines 41-43);

A status monitor (the server controlling the transferring) for controlling the

transfer of said medical data from said data source (server) to a centralized remote data

store (remote device) and determines the medical data for transfer to said centralized

remote data store (col. 11, lines 56-67); and

A centralized remote data store receiving said medical data and storing said

medical data (server) (col. 11, lines 63-66).

Regarding on claim 2, Mortimore teaches status monitor verifies said transfer of

said medical data from said data source to said remote data store.

Regarding on claim 5, Mortimore teaches data source further stores medical data

(col. 12, lines 1-5).

Regarding on claim 6, Mortimore teaches remote data store further stores said

medical data to said data source (col. 12, lines 1-5).

Regarding on claim 7, Mortimore teaches remote data store stores a copy of said

medical data (col. 12, lines 1-5).

Regarding on claim 8, Mortimore teaches a second data source for storing

medical data, wherein said remote data store transfer said medical data to said second

data source (col. 12, lines 1-5).

Regarding on claim 9, Mortimore teaches remote data store comprises an

application service provider (server is the service provider) (col. 11, lines 55-67).

Regarding on claim 10, Mortimore teaches remote data store is stored at a

plurality of locations (remote locations) (col. 12, lines 1-5).

Regarding on claim 25, Mortimore teaches a method for remotely archiving

medical data, said method comprising:

Transferring (transmitting) said medical data from a data source to a centralized

remote data store based on a trigger (the operator may then select which data object is

to be transmitted (step 802) by providing the appropriate identifier or other suitable

information) (col. 11, lines 61-63), wherein said medical data comprises at least one of a

medical image, a medical report, and a medical application (radiology films, report, lab

results, clinical notes) (col. 3, lines 41-430; and

Storing said medical data at said centralized remote data store (server) (col. 11,

lines 63-66).

Regarding on claim 26, Mortimore teaches the step of obtaining (scanning) said

medical data (col. 3, lines 30-41).

Regarding on claim 27, Mortimore teaches the step of storing said medical data

at said data source (col. 11, lines 63-66).

Regarding on claim 28, Mortimore teaches storing said medical data at said remote data store in a directory corresponding to said data source (col. 11, lines 38-40).

Regarding on claim 29, Mortimore teaches transferring step further comprises verifying said transfer of medical data from said remote data store to said data source (col. 11, lines 60-67).

Regarding on claim 35, Mortimore teaches the step of restoring said medical data to said data source from said remote data store (archive) (col. 11, lines 1-7).

Regarding on claim 36, Mortimore teaches the step of copying said medical data from said remote data source to a second data source (col. 12, lines 1-5).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical

Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting

directly or indirectly from an international application filed before November 29, 2000.

Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior

to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4.   Claims 15-24 are rejected under 35 U.S.C. 102(e) as being anticipated by Lucas

(US. Patent No. 6,221,010).

Regarding on claim 15, Lucas teaches a system for remotely accessing a

centralized data store, said system comprising:

A centralized remote data store storing medical data (incoming data is also sent

at the interval time to an archiving file and stored on the hard disk) (col. 3, lines 55-57),

wherein said medical data comprises at least one of a medical image, a medical report,

and a medical application (medial information) (col. 3, lines 55-57);

A status monitor for controlling (medical monitoring subsystem 13) (col. 3, lines

40-42) the transfer of said medical data from said centralized remote data store to a

data source a doctor or hospital can retrieve this archived medical data at any time)

(col. 3, lines 56-57, wherein said status monitor monitors at least one of said data

source and said centralized remote data and controls the transfer of said medical data

based on a trigger (doctor request as a trigger) (col. 3, lines 56-57); and

A data source receiving said medical data and storing said medical data (the archived information may be stored on any suitable medium such as a hard drive6 or magnetic 7) (col. 6, lines 48-50).

Regarding on claim 16, Lucas teaches a second data source storing medical data (col. 6, lines 48-50).

Regarding on claim 17, Lucas teaches status monitor controls the transfer of said copy of said medical data between said remote data store and said second data source (col. 3, lines 55-57).

Regarding on claim 18, Lucas teaches status monitor verifies the transfer of said copy of said medical data between said remote data store and said second data source (col. 3, lines 55-57).

Regarding on claim 19, Lucas teaches an access authenticator for authenticating access to said remote data store (col. 3, lines 58-60).

Regarding on claim 20, Lucas teaches status monitor verifies said transfer of said medical data between said first data source and said remote data store.

Regarding on claim 21, Lucas teaches remote data store comprises an

application service provider (server) (col. 3, lines 50-55).

Regarding on claim 22, Lucas teaches remote data store is stored at a plurality of

locations (col. 6, lines 44-48).

Regarding on claim 23, Lucas teaches remote data store restores said medical

data at said data source (archive) (col. 3, lines 55-57).

Regarding on claim 24, Lucas teaches remote data store comprises at least one

directory corresponding to said first data source (col. 3, lines 63-67).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

5.   Claims 3 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over

unpatentable over Mortimore et al. (US. Patent No. 5,950.207) in view of Ballatyne et

al. (US. Patent No. 5,867,821).

Regarding on claims 3 and 30, Mortimore does not explicitly teach an access authenticator for authenticating access to said remote data store by said data source. However, Ballantyne teaches, "access only granted to authorized users of which the library software automatically audits all user's accesses" (col. 8, lines 3-5). This teaches the database is the remote data store only allowing the user with access right to access the database. Therefore, it would have been obvious to one ordinary skill in the art at the time of the invention was made to modify access right to access the database of Ballantyne into Morimore to allow security control to protect the sensitive data from being tampered by the unauthorized person.

Regarding on claim 4, Mortimore does not explicitly teach access authenticator authenticates access to said data source. However, Ballantyne teaches, "the security process is based on the identification and authentication of individuals requesting access to the health record database" (col. 7, lines 67 and col. 8, lines 1-2). This teaches user is authenticated in order to access the database (data source). Therefore, it would have been obvious to one ordinary skill in the art at the time of the invention was made to modify the user authentication to access the database in Ballantyne into Mortimore in order to provide a security mechanism to protect the sensitive data from being tampered by the unauthorized person.

6.   Claims 11-14 and 31-34 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Mortimore et al. (US. Patent No. 5,950.207) in view of Kasso et al.

(US. Patent No. 5,893,073).

Regarding on claims 11 and 31, Mortimore teaches the subject matter except for

status monitor controls the transfer of data from said data source to said remote data

store at a definable interval. However, Kasso teaches, "each recurrence command may

also include an occurrence list that specifies at what time during an particular cycle the

event occurs" [col. 2, lines 31-33]. This teaches the data transferred is occurred at the

certain time of the day of the week. Therefore, it would have been obvious to one

ordinary skill in the art at the time of the invention was made to modify the time interval

of Kasso into Mortimore in order to provide the automatic transferred data based

predetermined time setting without user intervention.

Regarding on claims 12 and 32, Mortimore does not explicitly teach definable

interval comprises a timed interval. However, Kasso teaches, "an event occur every

Monday (weekly)" (col. 2, lines 10-13). This teaches the time interval is every Monday.

Therefore, it would have been obvious to one ordinary skill in the art at the time of the

invention was made to modify the time interval of Kasso into Mortimore in order to

provide the automatic transferred data based predetermined time setting without user

intervention.

Regarding on claims 13 and 33, teaches definable interval comprises an event - based interval [col. 2, lines 31-38]. Therefore, it would have been obvious to one ordinary skill in the art at the time of the invention was made to modify the time interval of Kasso into Tawara in order to provide the automatic transferred data based predetermined time setting without user intervention.

Regarding on claims 14 and 34, Mortimore does not explicitly teach definable interval comprises a manual interval. However, Passo teaches, "allow the user to store schedules of event into a computer" (col. 1, lines 13-14). This teaches the user can also enter the schedule time. Therefore, it would have been obvious to one ordinary skill in the art at the time of the invention was made to modify user entering the schedule of event of Kasso into Mortimore in order to provide the automatic transferred data based user predetermined time setting to allow the system efficiently work.

Conclusion

7.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Baoquoc N. To whose telephone number is (703) 305-1949 or via e-mail BaoquocN.To@uspto.gov. The examiner can normally be reached on Monday-Friday: 8:00 AM – 4:30 PM, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Y. Vu can be reached at (703) 305-4393.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231.

The fax numbers for the organization where this application or proceeding is assigned are as follow:

- (703) 746-7238   [After Final Communication}]
- (703) 746-7239   [Official Communication]
- (703) 746-7240   [Non-Official Communication]

Hand-delivered responses should be brought to:

Crystal Park II

2121 Crystal Drive

Arlington, VA 22202

Fourth Floor (Receptionist).

Baoquoc N. To

Sept 17, 2003

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TECHNOLOGY CENTER 2100